IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPICATION No.2191 of 2007

Mr Devang R. Sanghvi ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Niranjan Mundargi, Advocate for the applicant.

Ms M. H. Mhatre, A.P.P. for the Respondent No.1-State.

Ms Veena Gowda, Advocate for the Respondent No.2.

CORAM: V.C. DAGA, J.
DATED: 29th August, 2007.

P.C.:-

1. Heard learned Advocate for the applicant, learned A.P.P.for the State and learned Advocate for the original complainant-respondent no.2.

2. Perused application and the material available on record.

3. By this application under Section 438 of the Cr.P.C.,seeking anticipatory bail in C.R.No.115 of 2007 registered with Juhu Police Station for the offence punishable under Sections 498-A, 406 of the Indian Penal Code.

4. This is a matrimonial dispute between

husband and wife. The wife is alleging that her husband has committed offence under Sections 498-A, 406 of the I.P.C.

5. One of the main contentions of the complainant is that the custody of the applicant is necessary in order to search and take possession of the gold ornaments alleged to have been given in the marriage.

6. It is not in dispute that divorce petition filed by the applicant-accused is pending in the Family Court at Bandra in M.J. Petition No.A. 1558 of 2004.

7. Mr Mundargi, learned counsel for the applicant submits that according to the contents in the F.I.R. value of gold ornaments shown is Rs. 3 lac. He further submits that the wife-complainant has also moved an application for return of "Streedhan" in the Family Court at Bandra on 21.4.2006 and same is ordered to be heard and decided alongwith the main petition. One of the questions in the matrimonial dispute relates to the "Streedhan" which during trial of the matrimonial dispute, can be decided on its own merit. Mr. Mundargi, thus, submits that the applicant is ready to deposit Rs.2 lac with

the Family Court at Bandra within four weeks from today without prejudice to the rights and contentions of the applicant and to contend that he does not have any ornaments of the complainant in his possession. The last submission made needs approval of this Court. In view of the fact that the purpose of the custodial investigation is only to seek or trace gold ornaments alleged to be belonged to the complainant. If the deposit of Rs. 2,00,000/- (Rupees Two lac only) is ordered to be placed at the disposal of the Family Court, the apprehension and the complaint with regard to the appropriation of the gold ornaments can be taken care.

8. In aforesaid view of the matter, the submission made by Mr.Mundargi, could not be countered by the learned counsel appearing for the complainant or the learned APP appearing for the State.

9. In the above circumstances, the statement made by the learned counsel for the applicant with regard to the deposit of the amount of Rs. 2 lac with the Family Court at Bandra, is taken on record. In view of this, I do not see any necessity of custodial interrogation of the applicant accused.

10. In the above view of the matter, I am inclined to grant bail to the applicant in the sum of Rs. 50,000/- with one or two sureties to make up the said amount,subject to the following terms and conditions:

(a) he shall without prejudice to his defence or legal right deposit Rs. 2,00,000/- (Rupees two lac only) with Family Court within four weeks from today which shall be subject to the result of the matrimonial dispute.

(b) He shall report to the Investigating Officer as and when called.

(c) the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(d) the applicant shall not pressurise witnesses, of the complainant and that he shall co-operate with the Investigating agency.

11. The applicant is put on notice that on a

report by the State in violating any of the conditions by him, mentioned herein, shall result in cancellation of this bail order.

12. This order of anticipatory bail shall remain in force till the filing of the charge sheet. It would be open for the applicant to apply for regular bail before the regular Court.

13. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

14. The application is allowed in the above terms.

(V.C. DAGA,J.)